

CHAPTER 58

(SB 168)

AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 154.33-510 is amended to read as follows:

As used in KRS 154.33-501 to 154.33-585, unless the context otherwise requires:

- (1) "Area" or "region" means the geographical area~~represented by the East Kentucky Corporation, including that part~~ of Kentucky contained within the Appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended~~except that the counties of Clark, Garrard, Lincoln, and Madison shall not be included as part of the "area" or "region," as defined herein, for the purposes of KRS 154.33-501 to 154.33-585~~;
- (2) "Board" means the *executive* board of *Shaping our Appalachian Region, Inc., a Kentucky nonprofit 501(c)(3) corporation created and organized, as of the effective date of this Act, to advance and promote a resilient and diverse eastern Kentucky by providing leadership, vision, and collaborative partnerships to support innovative regional practices and enhance public and private investments in areas such as job creation, entrepreneurship, tourism, education and lifelong learning, health and wellness, arts and heritage, and sustainable agricultural practices and food systems*~~directors of the corporation~~;
- (3) "Commissioner"~~"Bonds" or "notes"~~ means *the commissioner of the Department for Local Government*~~revenue bonds, commercial paper revenue bonds, refunding revenue bonds, variable rate revenue bonds, notes, or other obligations issued by the corporation under the authority of KRS 154.33-501 to 154.33-585~~;
- (4) ~~"Committee" means the executive committee of the board of directors of the corporation, possessing all powers, duties, and responsibilities as provided in KRS 154.33-540, and as may be otherwise provided by the board;~~
- ~~(5) "Commonwealth" means the Commonwealth of Kentucky;~~
- ~~(6) "Corporation" means the East Kentucky Corporation;~~
- (5)~~(7)~~ "Executive director" means the chief administrator of *Shaping our Appalachian Region, Inc.*~~the corporation~~ having responsibility for its day-to-day operations, and possessing all duties, responsibilities, and authorities as specified by the board~~or executive committee~~;
- (6)~~(8)~~ "Fund" means the *East Kentucky Appalachian regional development fund*~~economic development fund~~ as provided by KRS 154.33-550;
- ~~(9) "Local governing body" means the fiscal court of any county within the area or the legislative body of any city represented on the board of the corporation; and~~
- ~~(10) "Project" means any economic or job development activity or program or facility or undertaking located within the area which is planned, developed, implemented, operated, financed, or otherwise assisted by the corporation pursuant to KRS 154.33-501 to 154.33-585.~~

➔Section 2. KRS 154.33-550 is amended to read as follows:

- (1) There is created and established a ~~loan~~ fund to be known as the ~~East~~ Kentucky *Appalachian regional development fund*~~economic development fund~~ to be administered by the *Department for Local Government*~~corporation as a trust fund separate and distinct from all other moneys, funds, and assets administered by the corporation~~.
- (2) The ~~East~~ Kentucky *Appalachian regional development fund*~~economic development fund~~ shall be comprised of~~and the corporation is hereby authorized to receive and accept for this fund, the proceeds of grants, contributions,~~ state appropriations, repayment of loans *and interest* made from the funds, and *interest earnings generated for the fund*~~any other moneys which may be made available to the corporation~~ for the purposes of the fund from any other source.
- (3) The purpose of this fund is to provide a source from which the *Department for Local Government*~~corporation~~ may make loans, grants, and investments *in accordance with the purposes and*

procedures established in Sections 3 and 4 of this Act, ~~and the corporation is authorized to make loans, grants, and investments from this fund~~ at such interest rates and for such terms as may be determined by the ~~commissioner or his or her designee~~ ~~corporation's executive committee~~, with security for repayment as ~~deemed~~ ~~the executive committee deems~~ necessary and reasonable.

- (4) *The proceeds of any loan, **grant, or investment** shall be used solely for the purposes **identified in Section 3 of this Act** ~~for which the loan is made~~ and as **may be further** provided in the ~~loan~~ agreement; however, no moneys from this fund shall be used to carry on propaganda or otherwise used to influence legislation.*
- (5) *Any unallotted or unencumbered balances in the fund shall be invested pursuant to KRS 42.500. Interest earned from the investment of these funds shall accrue to the Kentucky Appalachian regional development fund* ~~[Any loan made from this fund shall be consistent with and supportive of the corporation's strategic planning initiatives].~~
- (6) *The balance in the Kentucky Appalachian regional development fund shall be treated as a continuing appropriation and shall not lapse at the end of the fiscal year.*

➔SECTION 3. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Appalachian regional development fund shall be used only to support job creation and retention, entrepreneurship, tourism, broadband deployment, education and lifelong learning, workforce training, leadership development, public engagement, health and wellness, arts and heritage, infrastructure, economic diversity, and sustainable agricultural practices and food systems within and across counties in the region.*
- (2) *The following entities may apply for loans, grants, or investments from the fund:*
 - (a) *Nonprofit corporations that have or are actively seeking 501(c)(3) status, are registered to do business in the Commonwealth, are established to conduct business in accordance with the purposes of the Shaping our Appalachian Region initiative, and that have a physical presence within the region;*
 - (b) *Working groups or other formally designated entities representing Shaping our Appalachian Region, Inc. as documented by resolution of the board or the board itself; and*
 - (c) *Departments, divisions, or offices of a county or city within the region.*
- (3) *Applications shall be submitted to the executive director who shall confirm completeness and shall then submit applications to the board for consideration.*
- (4) *The board shall consider whether and to what extent the applications are consistent with the purposes specified in subsection (1) of this section. It shall then forward the applications to the commissioner with recommendations for approval or disapproval, giving priority to initiatives that present the greatest likelihood of regionwide economic impact.*
- (5) *The criteria to be used by the board in recommending applications to the commissioner shall include:*
 - (a) *The unemployment level in each community where the project will be located;*
 - (b) *The likelihood that the project will generate future revenue for the community or the Commonwealth;*
 - (c) *The number of new direct or indirect jobs to be provided for the residents of the Commonwealth and the wages to be paid;*
 - (d) *The degree to which the project will benefit the economies and communities in multiple jurisdictions within the region;*
 - (e) *Funding match from the local community and private sector persons or foundations; and*
 - (f) *The likelihood of the economic success of the project, including the ability of the project to sustain itself in the future.*
- (6) *The commissioner shall have authority to approve the application and shall, in consultation with the secretary of the Cabinet for Economic Development, determine reasonable terms and conditions for the loan, grant, or investment.*
- (7) *Money in the Kentucky Appalachian regional development fund may be disbursed by the applicant to any*

person or entity, public or private, organized for profit or not for profit, or any combination thereof with a geographical presence in the region as set forth in the application and approved by the commissioner, but the applicant shall be responsible for appropriate monitoring and reporting of the use of funds by the recipient.

- (8) *The Department for Local Government may promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section and Sections 4 and 5 of this Act.*

➔SECTION 4. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Applications for loans, grants, or investments submitted under Section 3 of this Act shall include the following:

- (1) *The name of the applicant and identification of all parties contributing to or taking a leadership role with regard to the development project;*
- (2) *A detailed description of the project, including its location and the total project cost;*
- (3) *The projected number of jobs, if any, to be created as a result of the project and a description of the types of jobs;*
- (4) *If the applicant is an entity other than a city or county, a letter of support from all local governmental entities affected by the project;*
- (5) *A detailed description of any other funding sources that will be used to pay for the project;*
- (6) *A plan for making the project self-sustaining if it is expected or intended that the initiative will have recurring expenses, and an explanation of the stream of revenue or other resources that will cover future costs, including operational costs, administrative costs, and upkeep on any property, buildings, equipment, or other capital assets funded; and*
- (7) *Any other information that the commissioner may require.*

➔SECTION 5. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Department for Local Government shall prepare and submit to the Office of the Governor and the Legislative Research Commission a report by November 1 of each year on the status of the Kentucky Appalachian regional development fund. The report shall include the operation and financial status of the fund, the initiatives supported by the fund, and the status of the measures of success identified for each funded initiative.

➔Section 6. KRS 154.33-530 is amended to read as follows:

If any member, officer or employee of the ~~board~~~~corporation~~ shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any *grant, loan, or investment from the Kentucky Appalachian regional development fund*~~contract with the corporation~~, including any loan to any sponsor, builder, or developer, the interest shall be disclosed *clearly in the application*~~to the corporation~~ and shall be set forth in the minutes of the ~~board~~~~corporation~~, and the member, officer, or employee having an interest therein shall not participate *in the application process*~~on behalf of the corporation in the authorization of the contract~~.

➔Section 7. The following KRS sections are repealed:

- 154.33-501 Short title for KRS 154.33-501 to 154.33-585.
- 154.33-515 East Kentucky Corporation -- Purpose -- Change in name -- Continuation of rights and obligations.
- 154.33-520 Corporation membership.
- 154.33-525 Board of directors -- Terms of office -- Vacancies.
- 154.33-527 Removal of members -- Meetings -- Officers.
- 154.33-533 Limitation of liability of corporate members or officers.
- 154.33-535 Powers and authority of corporation.
- 154.33-540 Executive committee -- Membership -- Powers and duties -- Meetings -- Expenses.
- 154.33-545 Bonds.

- 154.33-555 Construction of KRS 154.33-501 to 154.33-585.
- 154.33-560 Bonds payable from revenues and assets only.
- 154.33-565 Negotiability of obligations of the corporation.
- 154.33-570 Obligations are authorized investments.
- 154.33-575 Tax-exempt status.
- 154.33-580 Disposition of corporation assets upon termination or dissolution.
- 154.33-585 Annual report -- Annual audit.

Signed by Governor March 23, 2015.